

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
**AMENDED MINUTES**  
SEPTEMBER 7, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on September 7, 2010, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Bunder, Burch, Dietrich, Hoggatt, Hunt, Keen, and Thomas.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, City Engineer Buck, Police Chief Dombkowski, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, Director of Development Poole, and Foreman/Equipment Operator VanMeter.

MINUTES

Councilor Keen moved for acceptance of the minutes of the July 29, 2010, Pre-Council Meeting, and the August 2, 2010, Common Council Meeting, as corrected. Councilor Burch seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS

STREET, SANITATION, AND WASTEWATER TREATMENT UTILITY

Councilor Bunder presented this report, which will be on file in the Clerk-Treasurer's Office. He also reported that four videos about West Lafayette neighborhoods are being developed by the Convention and Visitors Bureau, in association with the other municipalities in the County. New Chauncey Neighborhood, Hills and Dales Neighborhood, the Village, and the mid-century modern homes will be featured.

PUBLIC SAFETY AND ORDINANCE

Councilor Keen presented this report, which will be on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS

No report.

PARKS AND RECREATION

Councilor Hunt presented this report, which will be on file in the Clerk-Treasurer's Office.

ECONOMIC DEVELOPMENT

Councilor Thomas presented this report, which will be on file in the Clerk-Treasurer's Office.

PERSONNEL

Councilor Burch announced the following personnel changes: Curt Cunningham has retired after many years of service. Amy Spann is the replacement for Betty Maxwell, who retired on June 30, in the Wastewater Treatment Utility Office. Megan Furst replaced Rachel Weaver in the Mayor's Office. Both Amy and Megan started today.

BUDGET AND FINANCE

No report.

REPORT OF APC REPRESENTATIVE

Councilor Keen deferred his remarks until later in the agenda, when the APC-submitted legislation is considered.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Thomas presented the Beautification Award to Gretchen Ely and Kathy Lafuse who live on Eden Street.

Presentation of Certificate of Appreciation

Ms. Lynn Layden, West Lafayette citizen, Master Gardener, and Beautification Manager, presented a Certificate of Appreciation to the West Lafayette Street Department for their special efforts in the cleanup after the July 18 storm. Photographs were shown of the devastation of trees and other damage in the Barberry Heights neighborhood. In two days, 270 tons of tree limbs were picked up by the Street Department. Foreman/Equipment Operator VanMeter accepted the certificate on behalf of the Street Department. Mayor Dennis added his thanks to the Street Department for their quality service and efforts above and beyond.

FINANCIAL REPORT

Clerk-Treasurer Rhodes stated that she met with the two County Council representatives, Andy Gutwein and Jeff Kemper, who have been assigned to review the City's 2011 budget. This is part of a State-mandated process by which the County Council will make a non-binding recommendation on the City budget, which determination must be made at least 15 days before the City Council passes the budget. The meeting was very constructive, and Mr. Gutwein and Mr. Kemper advised the Clerk-Treasurer that they would be making a positive recommendation to the County Council. Without County Council action, the 2011 budget could not be considered for final reading and vote. The criteria for review dealt with the increase in the levy in relation to the average growth quotient, which is 2.9% for 2011; whether the budget was increasing relative to the prior year (the 2011 budget is 8% lower than the 2010 budget); and whether the budget was balanced. The August financial reports have been distributed.

LEGAL REPORT

City Attorney Burns noted that the August legal report is on file. There were no questions about the report.

UNFINISHED BUSINESS

Ordinance No. 14-10 An Ordinance Providing For Payment Of Fire Hydrant Rental Costs By Indiana American Water Company Ratepayers (Sponsored by Mayor Dennis) [Consideration of this ordinance was postponed at the July 6, 2010, Council meeting until the September 7, 2010, Council meeting.]

Mayor Dennis read Ordinance No. 14-10 by title.

Councilor Keen moved that Ordinance No. 14-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis stated that there has been ample opportunity to review this matter. The average citizen in West Lafayette pays taxes, which help support operations within the City. Water is provided to everybody within the City limits of West Lafayette. This ordinance would pass the hydrant fee, which is an additional amount of about \$2.37 per month per water customer, to the ratepayer. The taxpayers are a small group; the ratepayers are a larger group. In West Lafayette, the anticipated hydrant fees are about \$267,000. With declining revenues and the uncertainties of the revenue streams for the future, Mayor Dennis said that now is the right time to pass the additional \$2.37 (on average) to the ratepayer. Since these fees come from the General Fund, \$267,000 would have an adverse impact; this amount is about four jobs. Several years ago, the Council did consider passing hydrant fees on to ratepayers, but the situation was not as severe as it is now. He encouraged passage of the ordinance.

Councilor Hoggatt said that he recommended postponement of the ordinance in July, so that there could be more discussion of the budget. He said that he felt that the fire hydrant rental was part of the overall budget discussion. During the discussion in August, Mayor Dennis made the point that the budget, as proposed, resulted in no decrease in City services, that it was as lean and mean as practical. That budget, Councilor Hoggatt said, included paying for fire hydrants in 2011, and now is not the right time to pass the increased fee along to ratepayers. The hard work of the Mayor, the Clerk-Treasurer, and the department heads to make a lean budget should reward the residents by not adding an "inverse tax," a way for the City to increase the budget without telling the citizens. There is no decrease in property taxes or income taxes. This would be an additional fee on the water bill, without City involvement and would drop a public service. Fire hydrants are a public safety service that the City provides. Councilor Hoggatt said that passing the ordinance drops a public safety service, so he will vote against the ordinance.

Councilor Hunt said that she has spoken to several of her constituents and other citizens outside of her district. She reported that she has told them of the dollar figure and that Indiana American Water provides hydrant services to 32 communities, and only in 8 of those municipalities do the municipalities pay the hydrant fees. Councilor Hunt said that she did not think the City could afford the increase. She said she has visited each of the departments, and does believe that the budget is lean and mean. She will vote in favor of the ordinance, as she has received encouraging words from her constituents on this ordinance.

Councilor Dietrich said he also would vote in favor of the ordinance, for similar reasons given by Councilor Hunt, but also the fact that 30-some fraternities and sororities, as well as the retirement homes would pay for hydrants if the ordinance passes. The City has found a way to accommodate the increase in 2011, but given the finite money available, it would not be good to continue to absorb hydrant fees. Wabash Township residents pay hydrant fees, and it seems fair and equitable to have the water users pay these fees.

Councilor Hoggatt said that fundamental fairness is a rabbit hole of slippery logic. EDIT line item 353 is currently for hydrant fees, already budgeted a little over \$262,000 to pay for the hydrants in 2011. He asked people to look at EDIT 351, which pays for the signals and lights on the streets. People getting to churches or retirement homes in the evenings are taking advantage of the City lights that the City is paying. So in a year or two, if the budget is tight, the City could say that, for fundamental fairness, all of the City lights should be added as an extra fee on the monthly electric bills, to spread out the cost more fairly. The slippery slope is to add fees to electric bills or water bills, creating inverse taxes and increase the City budget. The budget that was passed on first reading last month pays for the hydrant fees for 2011. Perhaps down the road when the City would actually have to sacrifice City services would be the time. A

relief of the pocketbooks of the residents for at least another year is the prudent thing for the Council to consider.

Councilor Dietrich said it does not seem prudent to him to wait until the City cannot fund something to make the right move. The City is in a position now where it can look forward with reasonable responsibility. He said that it takes months to put the budget together, and to enter that process without knowing where that money stands does not seem like the right decision. The City needs to carve the money out now, to deal with the tax base with a much clearer idea of what will be available to spend.

Councilor Hoggatt said that the City does know that it can pay the hydrant fees for 2011. What is being discussed is not setting a budget for tomorrow, it's setting a budget for 2011. The fire hydrant issue is not dealing with paying for fire hydrants tomorrow; it's talking about the entire 2011 year. This time next year, one could make discussions on budgeting for the future for 2012. But the City already knows it can pay for hydrant fees in 2011. That is what was voted on last month, to pay for these fire hydrants.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u><b>AYE</b></u>	<u><b>NAY</b></u>
Dietrich	Bunder
Hunt	Burch
Keen	Hoggatt
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 4-3.

Mayor Dennis announced that Ordinance No. 14-10 passed on first reading.

Ordinance No. 15-10 An Ordinance Setting The 2011 City Budget And Setting The 2011 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer) **PUBLIC HEARING ONLY**

and

Ordinance No. 16-10 An Ordinance To Fix The Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2011 (Prepared by the Clerk-Treasurer)

and

Ordinance No. 17-10 An Ordinance To Fix The 2011 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety)

and

Ordinance No. 18-10 An Ordinance To Set The Salaries Of The Elected Officials, City Of West Lafayette, Indiana, For The Year 2011 (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance Nos. 15-10, 16-10, 17-10, and 18-10 by title.

Councilor Keen moved that a public hearing on Ordinance Nos. 15-10, 16-10, 17-10, and 18-10 be held. The motion was seconded by Councilor Burch. The motion passed unanimously by voice vote.

The following members of the public spoke:

► Ms. Mary Cook (owner of business at 329 West State Street) stated that year after year, City budgets either stayed the same or decreased. She appreciates the fiscal responsibility and the services of the Fire, Street, and Police Departments. The citizens of the City of West Lafayette chose to put an additional tax levy on everyone for education, so City government's holding the line on expenditures is greatly appreciated. She hoped that the Council would pass the budget. Ms. Cook thanked the Council for their hard work and their participation.

Councilor Keen moved that a public hearing be closed. The motion was seconded by Councilor Burch.

Mayor Dennis closed the public hearing.

Comments from the Council:

► Councilor Hunt mentioned that Councilors have not received raises in at least seven years, and Ordinance No. 18-10 reflects that. Comparison of West Lafayette Council salaries with those of the Council in the City of Lafayette shows that Lafayette's are two or two-and-a-half times more than West Lafayette's. In addition, Council travel budget was cut.

There was no further discussion.

The motion to close the public hearing passed unanimously by voice vote.

Ordinance No. 15-10 will be placed on final reading at the October 4, 2010, Council meeting.

Ordinance No. 16-10 An Ordinance To Fix The Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2011 (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 16-10 by title.

Councilor Keen moved that Ordinance No. 16-10 be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no discussion.

COMMON COUNCIL MEETING MINUTES, SEPTEMBER 7, 2010, CONTINUED

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 16-10 passed on second and final reading.

Ordinance No. 17-10 An Ordinance To Fix The 2011 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety)

Mayor Dennis read Ordinance No. 17-10 by title.

Councilor Keen moved that Ordinance No. 17-10 be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 17-10 passed on second and final reading.

Ordinance No. 18-10 An Ordinance To Set The Salaries Of The Elected Officials, City Of West Lafayette, Indiana, For The Year 2011 (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 18-10 by title.

Councilor Keen moved that Ordinance No. 18-10 be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 18-10 passed on second and final reading.

NEW BUSINESS

Ordinance No. 20-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #66, Meteorological Towers and WECS) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 20-10 by title.

Councilor Keen moved that Ordinance No. 20-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen provided an explanation of the ordinance, citing the APC Staff Report.

Mayor Dennis asked how this ordinance would affect West Lafayette. Councilor Keen answered that it will not affect West Lafayette, but wind farms will be sited outside of the City limits.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 20-10 passed on first and only reading.



Ordinance No. 21-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #67, Allow Changeable Copy Signs) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 21-10 by title.

Councilor Keen moved that Ordinance No. 21-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen provided an explanation of the ordinance, citing the APC Staff Report. This ordinance does affect West Lafayette, as changeable copy signs are permitted in General Business (GB) and Highway Business (HB) zones. The ordinance would: (1) permit a maximum of 25% of the total sign of an integrated center as changeable copy; (2) allow 25% of the integrated sign be devoted to the development name; (3) limit advertising on the changeable copy portion of the sign to onsite tenant businesses only; (4) clarify how many signs an integrated center with multiple street frontages are permitted; and (5) require that the changeable copy portion of signs be turned off between 11:00 p.m. and 6:00 a.m.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 21-10 passed on first and only reading.

Ordinance No. 22-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #69, Change Development Standards of the Medical Related Zone and Introduce a New Zoning District, Medical Related-Urban) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 22-10 by title.

Councilor Keen moved that Ordinance No. 22-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen provided an explanation of the ordinance, citing the APC Staff Report. This does apply to West Lafayette, as there are some OR (office research) zones here. MR would be allowed in those areas.

There was no further discussion.



Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 22-10 passed on first and only reading.

Ordinance No. 23-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #70, Lowest Floor Elevation) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 23-10 by title.

Councilor Keen moved that Ordinance No. 23-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen provided an explanation of the ordinance, citing the APC Staff Report. This relates to homes that are allowed to be raised out of the flood plain and fine-tunes the definition of lowest floor elevation.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 23-10 passed on first and only reading.

Ordinance No. 24-10 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (WWTU to Vision Insurance Payment Fund and Dental Insurance Payment Fund) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 24-10 by title.

COMMON COUNCIL MEETING MINUTES, SEPTEMBER 7, 2010, CONTINUED

Councilor Keen moved that Ordinance No. 24-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that this ordinance is necessitated by the addition of one person to COBRA plans. The third-party administrator for COBRA remits the payments, significantly after the payments are due to the health insurance providers, so the Clerk-Treasurer needs sufficient loan capability to borrow money for cash flow from month to month.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u><b>AYE</b></u>	<u><b>NAY</b></u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 24-10 passed on first reading.

Councilor Keen moved to suspend the rules to consider this ordinance again at this time for final reading. The motion was seconded by Councilor Burch.

The motion to consider Ordinance No. 24-10 on second reading passed by unanimous voice vote.

Mayor Dennis read Ordinance No. 24-10 by title.

Councilor Keen moved for passage of Ordinance No. 24-10 on final reading, and asked that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u><b>AYE</b></u>	<u><b>NAY</b></u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 24-10 passed on second and final reading.

Ordinance No. 25-10 An Ordinance Prohibiting Certain Intoxicating Substances Within The City Of West Lafayette (Co-sponsored by Councilor Dietrich and Councilor Hoggatt)

Mayor Dennis read Ordinance No. 25-10 by title.

Councilor Keen moved that Ordinance No. 25-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis called on Tippecanoe County Prosecutor Pat Harrington to discuss this ordinance.

Tippecanoe County Prosecuting Attorney Pat Harrington explained that Spice or K2 has become very prevalent in our community and across the State. These substances have terrible effects on individuals. Depending on what other drugs are mixed with these substances, the effects are like PCP. The demographic of the users of these substances is young people. Tippecanoe County Council passed this ordinance, and the City of Lafayette is planning to pass it. The attorneys of the jurisdictions are working to make certain that the legislation is consistent from one jurisdiction to another. He urged passage of the ordinance.

Mayor Dennis showed a package of the substance, which Police Chief Dombkowski obtained from a store in Lafayette. The Mayor read the back of the package, which stated that it was intended to be used "as a fragrant potpourri incense only....This product is not designed, intended, or suggested to be used for human consumption in any capacity, including oral ingestion or through the inhalation of smoke in any way...." He called on Councilor Hoggatt to describe the chemicals. Councilor Hoggatt began by asking the price of the package. Mayor Dennis said it cost \$18.00.

Councilor Hoggatt said no one is buying this as incense for \$18.00. He pointed to the listing of compounds listed on the ordinance, and reported that virtually all of the compounds are colorless and odorless. The odorless component is key, he said, meaning that there is no reason for an incense product to have an odorless compound added to it, to make a better incense. One of the trade names listed is Fire "N" Ice, and the reason is that menthol is added to the product. There is no reason to add menthol to an incense product that is not meant to be inhaled. Councilor Hoggatt said that the sham is, at best, to try to disguise what they are. These are dangerous compounds. The words "synthetic cannabinoid" or "synthetic marijuana" are used. What many of these compounds do is hit the same receptor in the brain that the main component marijuana, THC, hits. While it is known to be extremely potent at that receptor, some compounds—even ones not on the list—are up to 25,000 times as potent. Right now, many of these are 10 to 50 times as potent at the receptor as THC. While it is known to hit that receptor, it is also hitting other things, most likely, that are not shown, and it is not known what it is hitting—glutamate receptors, vanilloid receptors—causing other pharmacological problems in the brain. Councilor Hoggatt reported that he has administered some of these compounds to lab animals, with very adverse effects. The clear message sent by this ordinance is that the City is trying to get these compounds off the streets, to reduce access. The notion that "If it is not illegal, it must not be too bad," is not a good one to have in this community.

Councilor Dietrich said the thing that his reading reveals consistently is that these compounds are ten times more potent than marijuana, which leads you to believe that it is a very mellowing drug. What was seen at Purdue in the three medical runs made last semester was accelerated heart rates that cannot be stopped or controlled by normal means. It is not a peaceful nirvana for those under the influence; the substances attack the individuals from many angles. People are combative. The percentage the Purdue Police are seeing is the tip of the iceberg; the numbers are starting to increase. The longer the substances are around, the more they will be experimented with by high school and even younger people.

Police Chief Dombkowski explained that passage of the ordinance will allow the Police Department to be consistent with what the County Council passed today, and what the municipal attorneys have collectively designed, for law enforcement to seize these substances. The intent is not to ticket violators or arrest users, but to prohibit access, to remove it from availability in the community. Nine states currently ban these substances, and legislation is pending in other states. The Chief said that two stores in West Lafayette were asked to stop selling these items while the legislation is pending, and they did so. But those businesses also have other outlets in Lafayette, where the substances are still being sold.

Mayor Dennis asked Prosecutor Harrington if the State trying to pass legislation regarding prohibition of these substances. Mr. Harrington said that State Senator Alting is planning to fast-track legislation, sending it to legislators in October, with first reading in January. It could then be passed in February and signed by the Governor immediately as an emergency measure that would take effect upon passage. Mr. Harrington said he had also spoken with State Representatives Truitt and Klinker, both of whom support this legislation. Once the State creates a criminal violation, then the West Lafayette ordinance could be removed.

City Attorney Burns said that there was a proposed amendment to Ordinance No. 25-10, which would add three items—(g), (h), and (i)—at Councilor Hoggatt's suggestion, as well as making the naming of the compounds consistent with the International Union of Pure and Applied Chemistry Systematic Names.

Councilor Keen moved that Ordinance No. 25-10 be amended by substitution. Councilor Burch seconded the motion.

There was no discussion.

The motion to amend Ordinance No. 25-10 by substitution passed by unanimous voice vote.

Mayor Dennis announced that Ordinance No. 25-10 (AMENDED IUPAC) was amended by substitution.

Councilor Keen moved that Ordinance No. 25-10 (AMENDED IUPAC) be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Ordinance No. 25-10 (AMENDED IUPAC) passed on first reading.

Councilor Hoggatt moved to suspend the rules to consider Ordinance No. 25-10 (AMENDED IUPAC) on second reading. The motion was seconded by Councilor Keen.

The motion to consider suspension of the rules to consider Ordinance No. 25-10 (AMENDED IUPAC) on second reading failed, as the voice vote had one NAY vote.

Councilor Hunt explained that her NAY was because the Council needs a public hearing on this ordinance, another hit on the educational focus. She is in favor of the ordinance and appreciates what Police Chief Dombkowski, Prosecutor Harrington, and others have done on this legislation. But a second reading permits more education. Since Chief Dombkowski requested merchants in West Lafayette to stop selling it and they have complied, the delay is not harmful.

Mayor Dennis stated that, procedurally, since the vote to suspend the rules was not unanimous, the second reading will be at the October Council meeting.

Resolution No. 10-10 Resolution Approving The City Of West Lafayette Go Greener Commission Amended By-Laws (Submitted by Councilor Bunder)

Mayor Dennis read Resolution No. 10-10 by title.

Councilor Keen moved that Resolution No. 10-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis called on Councilor Bunder to explain the resolution.

Councilor Bunder stated that this resolution would make the Go Greener Commission Bylaws work better. It has sometimes been difficult to determine when terms end, getting appointments to the Commission made, etc. This is a bookkeeping matter. Mayor Dennis said it does not affect the authority or power, but makes meetings easier to call, and the assignment of members clearer.

Councilor Bunder said that City Attorney Burns had reviewed the bylaws. Mr. Burns confirmed that the resolution streamlines the Commission.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>
Bunder	
Burch	
Dietrich	
Hoggatt	
Hunt	
Keen	
Thomas	

Clerk-Treasurer Rhodes stated that the vote was 7-0.

Mayor Dennis announced that Resolution No. 10-10 passed on first and only reading.

#### COMMUNICATIONS

None.

#### CITIZEN COMMENTS

► Ms. Jan Myers (1909 Indian Trail Drive) said she was speaking as a taxpayer this evening, especially since budget issues have been discussed tonight. The 1973 Rehabilitation Act, especially Section 504, was renewed in 1992. That Act compelled cities to accommodate persons with disabilities. In 1990, Congress passed what is commonly known as the ADA, which was fully defined January 26, 1992. Ms. Myers said she would provide the websites she quoted [The websites on accessibility referenced are Access Board, <http://www.access-board.gov/>; ADA Accessibility Guidelines, <http://www.access-board.gov/adaag/about/index.htm>; and ADA Best Practices Tool Kit for State and Local Governments by Civil Rights Division of the U.S. Department of Justice, <http://www.ada.gov/pccatoolkit/>.] She read from the ADA Best Practices Tool Kit for State and Local Governments:

Public entities may provide a wide range of programs, services, and activities. Police, fire, correction, and courts are services offered by public entities. Administrative duties, such as tax assessment or tax collection are services. Places people go such as parks, polling places, stadiums, and sidewalks are covered. These are just some examples (and by no means a complete list) of the types of programs, services, and activities typically offered by state and local governments. One of the main goals of ADA is to provide people with disabilities the opportunity to participate in the mainstream of American society. Commonly known as the "integration mandate," public entities must make their programs, services, and activities accessible to qualified people with disabilities in the most integrated way appropriate to their needs.

Ms. Myers said that, after speaking at Council meetings for the last 10 years, she was at the meeting tonight because in the last several weeks, she has received comments in person and by email from Councilors and other City employees, that they didn't know this, or ADA hadn't come up in professional meetings, to be as aware of it as they need to be, for the sake of the budget. Page 13 of the Toolkit, Chapter 1, says, "Any facility built or altered after January 26, 1992, must be "readily accessible to and usable by "persons with disabilities." She said she wanted to focus her remarks on accessibility of City Hall. She urged people to read the toolkit.

Chapter 2 specifically discusses the ADA Coordinator. She said she did not know of a City's ADA Coordinator. Mayor Dennis responded that Mike Thompson, Assistant City Engineer, is the City's ADA Coordinator. She said she did not find the notice on the City's website of ADA compliance that the City was to have passed in 1990 and updated frequently since then. This statement is to be on all City brochures.

Physically within City Hall, the bulletin board is too high for even people with normal height. For anyone in a wheelchair or a seated position, all items posted should be 15" and 40" from the floor. Literature racks, both on first and second floors, are far above 40". The goal of ADA is to allow people to do things independently. The City website has not been checked for compliance with ability to communicate; the transition plan was input as an image, so anyone using a reader or an enlarged type machine cannot read the plan. There are free software sites you can send documents and websites to for accessibility conversion, but the message "fatal error" is returned. The webmaster is not identified, nor is the ADA Coordinator, so contact for assistance is not possible. The notice regarding the City's ADA compliance is not located. There is no grievance procedure for ADA. She can find no procedure for a person with disabilities who makes a request to the City to know if this is a priority. About five years ago, Ms. Myers made a request that the ramp be lighted. It does not seem that the request got any attention. She has raised the issue that the ramp to City Hall is pulling away from the building and is settling into the ground. A much better door for accessibility would be lower level door on the west side of the building with easy parking, and it is visible from the Police Department. She urged moving the accessible door to the lower level.

Ms. Myers said that she had tried to find the City's ADA guidelines for development regarding the building of new stores. The BMV is not accessible. It has "L" shaped door handles that require finger tension; that is not in accordance with ADA guidelines. The BMV employees report that the City did not require accessible features. She would like to see the development guidelines.

The City's online parking map has no indications of where the ADA parking spots are. She said that she does not find the notices for provisions for people with vision or hearing challenges who attend City Council meetings. Nor does she find specific places for wheelchairs at Council meetings. The Parks Trails Map has no mention of the ADA notice, nor is it possible for anyone with sight disability to read the map.

She stressed the importance of the ADA Coordinator, who is responsible for coordinating the efforts of the government entity to comply with Title II (ADA) and investigating any complaints that the entity has violated Title II. Name, office address, and telephone number of the ADA Coordinator must be provided to interested persons. Nowhere on the phone book, City directories, or websites, has she seen the ADA Coordinator mentioned. If the City has a TTY line, she has not found reference to it. Ms. Myers read some of the statements regarding qualifications of the ADA Coordinator. She urged regular publishing and publicizing the ADA notice; the communication must be accessible to all.

As a taxpayer, Ms. Myers is concerned about the City's lack of compliance with ADA. Next month she will discuss the transition plan and where the City stands in compliance with streets and roundabouts. West Lafayette is in a precarious position of having the Justice Department assume control, in order to stop violations of civil rights of those with disabilities, and to bring about compliance with the law.



Councilor Hoggatt said that, after he had a discussion with Ms. Myers, he read a portion of the Toolkit. Chapter 2 addresses to ADA Coordinator and Grievance Form. He had difficulty also figuring out who the City's ADA Coordinator is. He has been informed that the ADA Coordinator is Michael Thompson, Assistant City Engineer. The Grievance Form is difficult to find, and he has addressed this with the Mayor. At the Pre-Council meeting, Ms. Myers distributed an email to the Council; Councilor Hoggatt asked that that email be added to the minutes [Attachment A]. He stated that he has asked that Assistant City Engineer Michael Thompson address these issues at the October meeting.

► Mr. Tom Kesler (479 Maple Street) addressed the matter of wind turbines, that he had attending a meeting at the County Building about wind turbines that some would like to install in Tippecanoe County. His observation is that those who are installing the wind turbines are very excited about having the wind turbines placed. The takeaway for Mr. Kesler was that those who described making a decision to buy into a certain rural lifestyle, and after they have made that investment, that lifestyle is changed by the proximity of the wind turbines. At least one person said she was considering reversing her purchase, in order to achieve the lifestyle she wanted somewhere else. Their concerns resonated with Mr. Kesler, as he, too, has made a purchase for a certain lifestyle in New Chauncey, and he hopes that he is not confronted with that kind of concern. Whatever influences are putting pressure on the New Chauncey Neighborhood, he worries about how those pressures might affect the lifestyle that he has chosen to live in New Chauncey. It is more than whether the turbines affect West Lafayette; what residents in the County were experiencing, and those who did not want the turbines, is an important thing to consider, as we move into the world of generating electricity with wind. It was more than just a technical issue of whether they are in the City or not, there is a real concern that is behind the scenes here.

► Ms. Jan Myers added one more comment to her earlier remarks. If anyone is being told that the document dealing with streets and roundabouts is in draft, it is not true. It has been passed and signed by the President, and all those things since 2005 that have been draft are now law.

► Ms. Kelly Matijevich, a former Purdue student, read a statement:

Neither Patti nor Jerry Weida nor any employee of the Weida Apartments was aware of our intent of over-occupancy until sued by the City of West Lafayette. We apologize to the Weidas and Weida Apartments for involving them in a lawsuit with the City as a result of our deviant behavior. We ask the Council to make changes to the ordinance holding occupants solely responsible for over-occupancy such as ours. We also ask that the Council make changes to the ordinance that gives the over-occupants a warning and an opportunity to correct the violation. That's it. Thank you.

## ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 8:10 p.m.